FedFin Daily Briefing

Wednesday, December 9, 2020

BIS Head Calls for Larger GSIB Capital Buffers, Asset-Quality Discipline

BIS General Manager Agustín Carstens today detailed actions supervisors should take to protect the banking system as NPLs and other high-risk assets grow due to the pandemic, noting also significant medium-term challenges due to tech innovation and NBFIs. Arguing that the best tool in the Basel III toolkit is the CCyB (see FSM Report **CAPITAL173**), he laments that sizeable buffers were not built in most jurisdictions. This is most problematic for GSIBs, where buffers are now insufficient for lending relief without more banking risk. Continuing capital distributions exacerbate this risk. Given that pandemic-relief measures have complicated computations of regulatory capital and key indicators of asset quality, Mr. Carstens also urges supervisors quickly to scrutinize TDR recognition and reserving to ensure that banks can differentiate borrowers with capacity to repay as conditions recover and those unlikely to do so. Supervisors also should step up contingency planning for resolution.

Over the medium term, supervisors must recognize risks due to persistent, low profitability and resulting systemic risk, facilitating orderly consolidation where appropriate. New technologies have promise, but the BIS head reiterated regulatory fears about risks to consumer protection, market integrity, and even financial stability. These combine with NBFI challenges to make clear the need to realign the regulatory perimeter to ensure regulatory alignment.

Continuing recent efforts by global regulators to recognize climate risk (see Client Report **GREEN5**), Mr. Carstens also tells supervisors to press for climate self-evaluations until there is an international consensus on how to embed climate risks into regulatory and supervisory requirements.

Democrats Ready Consumer-Bankruptcy Rewrite

Laying groundwork for a full-scale push in the next Congress, Sen. Warren (D-MA) and House Judiciary Committee Chairman Nadler (D-NY) have introduced sweeping consumer bankruptcy-reform legislation. Although President-Elect Biden supported the 2005 law this would supplant (see Client Report **BANKRUPTCY27**), he swung to supporting a significant rewrite in the course of the campaign. The Warren-Nadler bill will face significant obstacles if Republicans hold the Senate, but aspects of it could still advance given the risks of a bankruptcy wave in COVID's wake.

Key provisions in the legislation would significantly simplify individual bankruptcy filings and increase asset protections under an entirely new chapter in the code open to those with debt of less than $7.5 million. The measure also adds eviction protection and new mortgage-modification requirements and allows student loans to be discharged. Reflecting the current focus on racial equity, the measure would also provide relief for debts due to violations of civil-rights statutes, a provision with significant lender implications that would be amplified if Congress also acts on Democratic legislation to add financial services to the body of U.S. civil-rights law. An array of debt-collection restrictions would be added, although lenders would find it easier to collect on debt owed by wealthy individuals.

Several provisions – e.g., a major new role for the CFPB in protecting borrowers facing bankruptcy due to what might be considered predatory lending, higher damages for violations of consumer-protection law – also fall under HFSC or Senate Banking. Leading Democrats on these panels have yet to add their names to the bill.

Recent Files Available for Downloading

The following reports and analyses have been sent to retainer clients recently. Copies are also available to retainer clients on the Archives section of Federal Financial Analytics' website: www.fedfin.com or clients may obtain the reports/analyses by e-mailing requests@fedfin.com giving the requested item name, firm, and e-mail address. To learn more about GSE Activity Reports, click: http://www.fedfin.com/index.php?option=com_content&view=article&id=18&Itemid=18

- **CHARTER28:** Continuing Acting Comptroller Brooks' policy of considering precedent-breaking applications and charters, the agency has received a controversial application from Figure to establish a national bank that, by virtue of this charter, would also be a Fed member.
- **GSE-120720:** The last Trump FSOC annual report reiterates 2019's findings: nonbank originators and servicers are weak and interconnected, thus posing systemic risk.
- **DIGITAL6:** Even though 2020 was of course preoccupied by the pandemic, there was no scarcity of the oft-repeated nostrum that law and rule must define the future of digital finance.
- **CHARTER27**: In conjunction with a wide-open request for views on ways to increase the innovativeness of national banks and federal savings associations (FSAs), the OCC has finalized a significant rewrite of their more traditional powers and activities.
- **GSE-120220**: Today's House Financial Services session with Mnuchin and Powell shed just a bit more light – or provided still more uncertainty – on the critical question of whether Treasury will work with FHFA to end the conservatorships before the Biden Administration surely keeps them for a long, long time.
- **GSE-120120A**: At today's Senate Banking hearing on the CARES-funding fracas, Secretary Mnuchin told Sen. Rounds (R-SD) that the GSEs should be quickly brought out of conservatorship but that they will not be let out without sufficient capital/
- **GSE-120120**: Given the high confirmation odds for Janet Yellen as the nation's next Treasury Secretary, we here assess her impact on the future of U.S. housing finance.
- **ESG3**: Following through on one of his pledges, Acting Comptroller Brooks' agency has issued a controversial proposal to prevent large banks and perhaps all federally-chartered ones from deciding whether or not to grant credit on grounds other than clear, quantitative indicators of ability to repay.
- **GSE-112420**: Building on our analysis of the overall final FHFA capital rule, we turn here to an assessment of the rule's strategic impact.
- **GREEN5**: In its latest report on climate risk, the Financial Stability Board reiterates the complexity of measuring financial-system climate risk, continuing its work to enhance the ability of regulators and financial institutions to do so due to the magnitude both physical and transition risks are likely to pose.

- **GSE-112320:** In this report, we build on our initial summary of FHFA's final capital construct to assess one of the most important issues on which FHFA made at least some concessions.

- **GSE-111920**: On Monday, we reiterated our call that FHFA would move the capital rule ASAP and then end the conservatorship as quickly as possible under terms and conditions designed to make it challenging for the Biden Administration to unravel a fait accompli.

- **GSE-111820**: In its 2020 systemic-risk assessment, the Office of Financial Research takes unusual issue with GSE CRT transactions.

- **SYSTEMIC90**: The Office of Financial Research's latest systemic-risk assessment reiterates much of the market analysis in the FRB's recent report (see Client Report **SYSTEMIC89**), the FSB's analysis (see Client Report **NBFI**), and the OCC's risk matrix.

- **NBFI**: As promised again just last week, the Financial Stability Board today released a "holistic" plan for dealing with NBFIs along with an ambitious agenda for global standards as soon as next year.

- **GSE-111620**: Responding to your requests, this report summarizes and expands on the post-election outlook for U.S. housing policy we've also discussed with many of you since November 3.

- **RESCUE78**: Today's HFSC hearing with federal regulators addressed some of the same ground as the Senate's session earlier this week (see Client Report **RESCUE77**), although Acting Comptroller Brooks did not come in for the shellacking on his innovative charters delivered by Senate Democrats

- **RESCUE77:** At its first hearing following last week's election, Senate Banking today heard testimony from the federal prudential regulators which largely covered ongoing efforts to combat the COVID pandemic's impacts on the financial system.

- **GSE-111020**: Following our in-depth analysis of the Fed's latest financial-stability report, we here focus on mortgage-specific considerations, with the most significant strategic one the Fed's conclusion that nonbank mortgage servicers and MREITs are far from out of COVID's Black Forest.

- **SYSTEMIC89**: In this report, we go in depth into the forward-looking financial-policy implications of the Fed's latest financial-stability report.

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